



City of Carmel

Carmel Advisory Board of Zoning Appeals Hearing Officer Monday, June 28, 2004

The meeting was held at 6:15 PM in the Caucus Rooms on the Second Floor of Carmel City Hall on June 28, 2004. The Hearing Officer was James R. Hawkins.

Department of Community Services Staff in attendance: Angie Butler and Jon Dobosiewicz. John Molitor, Legal Counsel, was also present.

D. Public Hearing:

1d. Thistlewood, Sec 3, lot 32 - Martindale Residence

The applicant seeks the following development standards variances:

Docket No. 04050023 V Chapter 6.04.03.A Front Building Setback

The site is located at 13707 E Goldfinch Dr. The site is zoned S-2/Residence.

Filed by Paul Martindale.

Present for the Petitioner: Paul Martindale. He presented a map, description and pictures of the house and the proposed covered porch. The existing three-foot porch measures 36.65 feet from the building line. He is asking to go out a total of eight feet, including the existing three feet. He would extend past the 35-foot build line by approximately three feet. He would like an eight-foot porch to allow room for chairs and still be able to use the porch. The porch will match the existing shingles, roofline and color.

Members of the public were invited to speak in favor or opposition to the petition; no one appeared.

The Public Hearing was closed.

Ms. Butler gave the Department Report. The petitioner has been very kind and gone to each neighbor and described his project. He has given an exceptional level of information in his packets. The Department is recommending favorable consideration.

Mr. Hawkins **APPROVED Docket No. 04050023 V, Thistlewood, Sec 3, lot 32 – Martindale residence.**

2d. Brighton Woods, Sec 1 & 2, lots 5-14 and 21-27

The applicant seeks the following development standards variances on 17 lots:

Docket No. 04050049 V-a through 04050049 V-q Chapter 25.02.02 Fence Height

The site is located northeast of 116th Street and Hazel Dell Pkwy. The site is zoned S-1/Residence-Low Density. Filed by Mark Monroe of Drewry Simmons & Vornehm for Roehling Enterprises.

Present for the Petitioner: Mark Monroe, attorney, 8888 Keystone Crossing, and Ray Roehling, developer of Brighton Woods. Maps and pictures of the fence area were shared. The eight-foot fence has lattice design for the top two feet. The bottom six feet are solid. The fence has a two-sided design with both sides having the same design. The top two feet help to block the view between the two neighborhoods.

Public Remonstrance:

Peggy Kovach, 5933 Bunty Lane, Northwood Hills. She stated that the fence is not the same on both sides. She presented thirteen pictures of the Brighton Woods fence. She discussed the 50-foot tree buffer and greenspace. She stated that Mr. Roehling has not been maintaining the fence. She felt the fence would not be necessary if the 50-foot buffer and greenspace had been maintained.

Gloria Linville, 5933 Bunty Lane, Northwood Hills. They have 250 feet of property adjacent to Brighton Woods. She also discussed damage to the greenspace topsoil and their fence. Water now puddles on their side of the fence, since the greenspace has been removed. She would like the topsoil, foliage and trees replaced and drainage provided. Six feet would be sufficient for the fence if the foliage and trees were restored.

Public Hearing was closed.

Rebuttal:

Mr. Monroe stated that there were different issues mentioned tonight that are not relevant to the fence request. The fence is permitted by ordinance. The question is the eight feet. When the fence is finished, it will look the same on both sides.

Mr. Roehling stated that the fence was incomplete because of the Stop Work order they received from the City.

Mr. Monroe stated that the other general issue is related to trees that existed in the back of Brighton Woods. As a part of the Plan Commission approval, Mr. Roehling was only required to preserve those trees that were four inches in diameter. He was permitted to clear the underbrush and smaller trees. This is irrelevant to the fence issue. The other issue is relating to drainage. The drainage was improved by grass and grading.

Mr. Roehling stated that there are also two or three 6-inch perforated drains and a beehive approved by the City.

Mr. Hawkins interjected that he cannot discuss the foliage, topsoil or drainage issue. His concern is the variance for an eight-foot fence. He suggested that the developer and the homeowners of Northwood Hills get together.

In favor of the fence:

Sheridan Gilchrist, 11836 Westwood Drive, Northwood Hills. Her preference is eight feet. The fence provides a nice buffer when the trees are bare.

Mr. Monroe stated there were others in the audience from Brighton Woods that are favor of the fence.

Dean Lindsay, 11795 Dubarry Court, Brighton Woods. In the winter without foliage, they look directly into the Gilchrist home. He encouraged Mr. Roehling to increase the fence to eight feet.

C. A. Newsom, 11919 Dubarry Drive, Brighton Woods. They enjoy the extra two feet as a buffer to their neighbor's yard. It also hides the utility lines behind their property.

Hal Poulin, 11751 Dubarry Court, Brighton Woods. They purchased their home in February and it already had an eight-foot fence. They assumed it was approved, since that is what they bought.

Laura Rippe, 11846 Westwood Drive, Northwood Hills. She is confused about the fence. If all the trees weren't gone behind her house and a two-story house that looks directly into their home hadn't been built, they wouldn't need a fence. She is basically against the eight-foot fence because of the damage that was done to acquire it.

The Public Hearing was closed.

Mr. Dobosiewicz gave the Department Report. The Department is recommending favorable consideration. He would also like to have a dialog with the Northwood Hills homeowners to discuss the drainage. Since the City has annexed the Northwood Hills area recently, the City could address the drainage issues. Complaints have been received in the last three months about the activity being conducted within the fifty-foot area adjacent to Northwood Hills. A couple of members of the Staff, including the Urban Forester, visited the site and reviewed the Plan Commission records with regard to this subdivision. Today's standard for tree preservation is different than when this subdivision came through in 1998. The Department made a determination that the developer is conforming to the standards that were approved. Some additional agreements have been made regarding storage of materials to preserve the 50-foot area. The Department is not in favor of significant buffers between neighborhoods and would not be in favor of an eight-foot solid fence. Some reasonable conditions could be established.

Discussion followed regarding the look of the fence.

Mr. Hawkins **APPROVED Docket No. 04050029 Va through 04050029 Vq, Brighton Woods, Sec 1 & 2, lots 5-14 and 21-27** with the following **CONDITIONS**:

- 1) Fence is completed to reflect the same workmanship on both sides.
- 2) Fence is set vertically without additional supports.
- 3) Proper grading and seed/mulch be completed, once the fence is completed.

E. Old Business.

None

F. New Business.

None

G. Adjourn.

The meeting was adjourned at 6:50 PM.

James R. Hawkins, Hearing Officer

Connie Tingley, Secretary

S:\Board of Zoning Appeals\Agendas\Hearing Officer - 2004\20040628.rtf